

Message Text

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PAGE 01 STATE 164975
ORIGIN EB-08

INFO OCT-01 ARA-10 EUR-12 ISO-00 CAB-02 CIAE-00
COME-00 DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00
L-03 INRE-00 NSCE-00 /046 R

DRAFTED BY EB/OA:MHSTYLES:VLV
APPROVED BY EB/OA:MHSTYLES
DOT - WKUTZKE
CAB - DFARMER
L/EB - FWILLIS (SUB)
EUR/WE - EJBEIGEL (SUB)
-----077200 290040Z /23
O 282336Z JUN 78
FM SECSTATE WASHDC
TO AMEMBASSY PARIS IMMEDIATE
INFO AMEMBASSY LIMA IMMEDIATE

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PARIS FOR USDEL CHAIRMAN LEE MARKS; LIMA FOR JAMES ATWOOD

E.O. 11652: N/A

TAGS: EAIR, FR

SUBJECT: CIVAIR - PAN AM CHANGE OF GAUGE

REF: PARIS 20616

1. AFTER CONSULTATION AMONG DEPT, DOT AND CAB, FOLLOWING
IS POSITION YOU SHOULD FOLLOW WITH RESPECT TO ISSUES
OUTLINED REFTEL.

2. WE DO NOT BELIEVE THAT PART 213 ISSUE SHOULD BE ARBI-
TRATED AT SAME TIME AS, OR RELATED TO, ARBITRATION OF
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CHANGE OF GAUGE ISSUE. PRACTICAL IMPACT OF PART 213 ON
FRENCH WOULD BE MOOTED BY ITS WITHDRAWAL AND NO ACTUAL
DAMAGE WOULD HAVE BEEN SUFFERED BY FRENCH AIRLINES, WHEREAS
DAMAGE HAS PRESUMPTIVELY BEEN SUFFERED BY PAN AM. FRENCH
GOVT HAS BEEN AWARE OF PART 213 FOR MANY YEARS AND HAS HAD
OPPORTUNITY TO PURSUE IT WITH USG THROUGH CONSULTATIONS AND/
OR ARBITRATION BUT HAS NOT PREVIOUSLY DONE SO. MOREOVER,

AIR FRANCE HAS HAD ITS DAY IN US COURTS WITH RESPECT TO APPLICATION OF PART 213 IN THIS PARTICULAR CASE. MAIN OBJECTIVE SHOULD BE TO RESOLVE THE IMMEDIATE ISSUE OF CHANGE OF GAUGE AND WE BELIEVE THIS CAN BE DONE WITHIN THREE-FOUR MONTHS IF IT IS NOT COMPLICATED BY ADDITIONAL ISSUES.

3. IF FRENCH INSIST THAT PART 213 SHOULD BE ARBITRATED, YOU SHOULD INDICATE THAT US IS NOT OPPOSED TO ARBITRATING THIS ISSUE IN ACCORDANCE PROCEDURES IN BILATERAL BUT THAT, JUST AS FRENCH WANTED TO PURSUE ALL REMEDIES UNDER BILATERAL BEFORE ARBITRATING CHANGE OF GAUGE ISSUE, SO WE BELIEVE THAT BILATERAL PROCEDURES HAVE NOT BEEN EXHAUSTED WITH REGARD PART 213. US POSITION IS THAT PART 213 ISSUE SHOULD MOVE ON A SEPARATE TRACK AND THAT, IF FRENCH PERSIST IN THEIR DESIRE TO ARBITRATE THIS ISSUE, US LIKELY TO INTRODUCE OTHER PENDING ISSUES FOR ARBITRATION AT SAME TIME. (YOU OF COURSE AWARE THAT BILATERAL DOES NOT PROVIDE THAT ARBITRAL DECISION IS BINDING, AND WE WOULD HAVE TO CONSIDER FURTHER WHETHER WE WOULD AGREE TO BE BOUND BY DECISION.)

4. US WOULD HAVE NO OBJECTION TO ARBITRATING ALL PENDING ISSUES AT ONE TIME WITH NO SET DEADLINE FOR COMPLETION OF ARBITRATION. UNDER THIS SCENARIO, WE WOULD OBVIOUSLY HAVE TO AGREE TO SPECIFIC TERMS OF COMPROMIS WITH RESPECT TO LIMITED OFFICIAL USE

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CHANGE OF GAUGE ISSUE BY JULY 12, BUT COULD LEAVE DEFINITION OF OTHER ISSUES TO A SUBSEQUENT MEETING. WE DOUBT FRENCH WOULD CONCUR IN THIS APPROACH AND THEREFORE LEAVE IT TO YOUR DISCRETION WHETHER TO MENTION IT.

5. YOU SHOULD ATTEMPT TO HOLD TO JULY 12 DATE FOR COMMENCEMENT OF PAN AM SERVICE ON GROUNDS THIS IS HALFWAY BETWEEN MAY 3 AND OCTOBER 31, THE DATE FOR COMPLETING A FOUR-MONTH ARBITRATION. YOU SHOULD NOT AGREE TO ANY STOPPAGE OR REDUCTION OF PAN AM'S SERVICES AFTER THAT DATE IF ARBITRAL DECISION IS NOT BY THEN RENDERED.

6. IN THE EVENT COMMINGLING ISSUE ARISES, WE SUGGEST ISSUE BE FRAMED AS FOLLOWS: "IS A US AIRLINE PROHIBITED FROM CONSOLIDATING AT LONDON ON A SINGLE FLIGHT THROUGH (TRANSIT) TRAFFIC WHICH IS MOVING ON VARIOUS NONSTOP FLIGHTS BETWEEN US WEST COAST POINTS AND LONDON AND IS DESTINED FOR OR COMING FROM PARIS."

7. WILLIS ADVISES THAT IF FOUR-MONTH ARBITRATION AGREED TO, METZGER COULD NOT ACCEPT.

8. FOR YOUR INFORMATION, PAN AM ADVISES THAT PAN AM
INTENDS CONTINUE SIX A WEEK OPERATION AFTER OCTOBER 31.
VANCE

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NNN

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Automatic Decaptioning: X
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Disposition Approved on Date:
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